

MINUTES
TOWN OF FREDERICK
PLANNING COMMISSION
Frederick Town Hall
April 7, 2009
7:30 p.m.

Attendance: Chairman Jeff Roehrig, Commissioners Donna Hudziak, Donald Hard, Alan Blair and John Loveless were present. Also present were Planning Director Jennifer Simmons and Town Attorney, Cyril Vidergar.

ROLL CALL: Chairman Roehrig called the regular meeting to order at 7:30p.m. Roll call was taken; all commissioners were present.

ADDITIONS TO THE AGENDA: There were no additions to the agenda.

APPROVAL OF MINUTES FROM THE FEBRUARY 17, 2008 MEETING:

Commissioner Hudziak made a few corrections to the minutes. Commissioner Blair made a motion to approve the minutes from the February 17, 2008 meeting as amended. Commissioner Hudziak seconded the motion. All in favor, motion carried.

REVIEW OF AMENDMENTS TO ARTICLE 5, VESTING OF PROPERTY RIGHTS:

Planner Jennifer Simmons presented the staff report by stating that in accordance with the general updates to the Land Use Code and specific direction from the Board of Trustees, Article 5 has been amended for your consideration.

Late in 2008, a developer approached staff regarding requesting vesting of property that had been final platted in the recent past. The Land Use Code required that the vesting request occur prior to the final plat or final development plan being approved by the Board of Trustees. Staff brought the question of whether or not a vesting request could be made following approval of the final plat or final development plan by the Board of Trustees. The Board of Trustees suggested that the Code be amended to allow requests for vesting up to five (5) years following the approval date. The maximum amount of time that vesting will be allowed is eight (8) years following the approval date. So for example, Development A may request vesting prior to approval of the final plat. The maximum amount of time they may request is eight (8) years following the Board of Trustees approval date. Development B may request vesting four (4) years after the Board of Trustees approval date, but may then only request four (4) years of vesting.

For the purpose of establishing and maintaining sound, stable, and desirable development within the Town, the text of this Code shall not be amended except:

- (1) To correct a manifest error in the text of this Code;
- (2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town Staff;
- (3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Code; or
- (4) To further the implementation of the goals and objectives of the Comprehensive Plan.

The proposed amendment provides for changes in administrative practices as well as changes in the national economy.

This project was properly noticed according to the requirements of Section 4.5 of the Frederick Land Use Code.

Staff requests that the Commission consider recommending approval of PCR-2009-03A recommending approval of the amendment to the Board of Trustees.

Commissioner Blair asked for the definition of vesting.

Planner Simmons quoted the definition from the Land Use Code.- "Vested Property Right means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan, pursuant to Article 5 of this code."

Simmons explained to the Commission that if a developer comes in and the final plat and development plat are already recorded with no vesting, if the Land Use Code changes (setbacks, lot size, height restrictions, etc.) before the developer builds, the developer is responsible for conforming to the changes made to the Land Use Code. If vesting is allowed, even if the Land Use Code changes, the developer is vested into the Code at the time the final plat and development plan were recorded for the length of time the Board has approved his vesting (3 years to 8 years).

The Board of Trustees has agreed to allow a request for vesting for up to five (5) years for applications that have already been approved. If the request is made prior to plat approval, the developer can ask for up to eight (8) years. If the request is made five (5) years after approval, the maximum vesting would be three (3) years.

Chairman Roehrig asked if the final plat states a time limit for building.

Planner Simmons said there is no limit on the final plat.

Commissioner Hudziak asked if vested property rights default.

Planner Simmons stated that they do not default.

There was some discussion regarding how the vesting will affect right-of-way dedications.

Cyril Vidergar stated that if the plat goes away, the dedication does too.

Planner Simmons added that a vacation of right-of-way would be required to remove right-of-way dedicated by a plat.

Planner Simmons further explained that if the vesting is done after the final plat, an amended plat must be submitted and recorded and that vesting is transferable to a new owner.

If a specific vesting period is not stated, the vesting period will automatically be three (3) years.

Commissioner Blair made a motion to approve PCR2009-03A "A Resolution of the Planning Commission Recommending Approval of an Amendment to Article 5 of the Land Use Code Regarding Vesting of Property Rights". Commissioner Loveless seconded the motion. All in favor, motion carried.

PRESENTATION ON CODE RESEARCH REGARDING CHURCH USES ACROSS ZONING DISTRICTS:

Planner Simmons addressed the Commission by stating that as recent projects have been considered, information regarding church uses in residential zoning districts has been requested. The information in the packet is meant to demonstrate how other area communities address church/religious uses across zoning districts. This information is presented for discussion purposes only. No action is necessary.

Chairman Roehrig feels that churches need to be allowed in more zoning districts.

Planner Simmons asked the Commission if they would like to see churches allowed in R-1 (Single Family); R-2 (Duplex); and R-3 (Multi-Family). She asked if they would also like to see ancillary services in these zoning districts as well.

Commissioner Hudziak asked for the definition of Accessory Use.

Planner Simmons read the definition of Accessory Use from the Land Use Code – “Accessory Use means a subordinate use, clearly incidental and related to the main structure, building or use of land, and located on the same lot (or in a contiguous lot in the same ownership) as that of the main structure, building or use. If the use is called out specifically in the table of permitted uses (Table 3-1), the requirements of the table apply.” If a church owns two lots, they could put a church on one lot and a parking lot on the other lot. They could sell the parking lot as a separate parcel.

Commissioner Loveless asked if a safe house would be a permitted use as an accessory use. He asked if there is a public safety clause.

Simmons asked if the Commission would like the condition that the church can be located only on an arterial or collector street. If the membership is over 600 in Longmont, it becomes a conditional use.

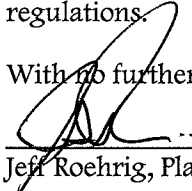
Chairman Roehrig asked what the difference is between having a church in an R-1 zone and a school.

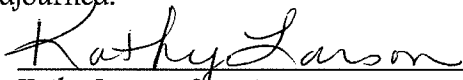
Planner Simmons explained that the school is Monday through Friday and is mainly used by the residents of that R-1 community.

UPCOMING MEETINGS:

There will be a joint meeting with the Board of Trustees and other Commissions on 21 April from 5:30PM – 7:30PM and a short Planning Commission Meeting following to discuss the flood plain regulations.

With no further business to discuss, the meeting was adjourned.


Jeff Roehrig, Planning Commission Chairman


Kathy Larson, Secretary